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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

MARIO ARSENIO ZAMORANO,

Defendant and Appellant.

2d Crim. No. B213836
(Super. Ct. No. 2008008642)
(Ventura County)

Mario Arsenio Zamorano appeals the judgment entered after he pleaded guilty to driving under the influence with a prior conviction (Veh. Code, §§ 23152, subd. (a), 23550) following the denial of his motion to suppress. Imposition of sentence was suspended and he was placed on 60 months formal probation, with conditions including that he serve 180 days in county jail.

Because Zamorano pleaded guilty, the relevant facts are derived from the transcripts of the preliminary hearing and suppression motion. At about 10:40 a.m. on March 1, 2008, California Highway Patrol Officer Edward Coronado observed appellant driving at a high rate of speed as he approached a stop sign in Oxnard. Although appellant was not driving in excess of the posted speed limit, the officer believed his speed was excessive given his proximity to the stop sign. Appellant's delayed reaction and hard braking action also led the officer to believe he might be intoxicated. Appellant stopped so quickly that the rapid weight transfer of his vehicle caused the front end to go

down while the rear end went up. Officer Coronado also heard appellant's tires, although his wheels left no skid marks.

Officer Coronado conducted a traffic stop. When he approached appellant, he smelled the odor of alcohol emanating from inside the vehicle. The officer also observed that appellant's eyes were red and watery, which is a sign of intoxication. Based on the results of field sobriety tests, Officer Coronado administered a preliminary alcohol screening test. The first test measured a blood alcohol level of 0.139, while the second measured 0.143. Chemical tests conducted at the police station approximately one hour later yielded a 0.13 blood alcohol level.

Appellant's mechanic, Santos Makul, testified at the suppression hearing on his behalf. Makul testified that appellant's vehicle had a power brake system, which would have caused the wheels to lock on one side and skid or swerve in the event of heavy braking. Makul also noted that the vehicle had air shocks that caused the rear to rise a little higher than the front. In Makul's opinion, appellant brought his vehicle to a normal stop without heavy braking at the time in question. Another defense expert, Norm Fort, testified that according to standards promulgated by the National Highway and Traffic Safety Association (NHTSA), rapid deceleration at the time and location of appellant's stop did not suggest driver impairment, particularly in light of Officer Coronado's concession that many drivers did not stop at the subject sign. Fort acknowledged, however, that the NHTSA standards did not specifically refer to deceleration at stop signs, but rather a driving pattern of rapid deceleration or acceleration. When Fort personally observed the intersection, about seven out of ten vehicles either "blew the stop sign" or rolled through it.

We appointed counsel to represent appellant in this appeal. After examination of the record, counsel filed an opening brief in which no issues were raised.

On June 16, 2009, we advised appellant that he had 30 days within which to personally submit any contentions or issues which he wished us to consider. In his timely response, appellant contends his motion to suppress should have been granted because Officer Coronado's testimony that appellant made an unsafe stop at the intersection

contradicts his testimony at the DMV hearing that the stop was not unsafe. The record belies this contention. At the DMV hearing, Officer Coronado explained that although his arrest report did not refer to appellant driving at an unsafe speed, "Mr. Zamorano had a delayed reaction to the stop sign, which is an indication that [*sic*] possibly driving under the influence. So, I could have articulated that it was an unsafe speed for the conditions; that condition again being the stop sign."

We have examined the entire record and are satisfied that appellant's attorney has fully complied with her responsibilities and that no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 441.)

The judgment is affirmed.

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PERREN, J.

We concur:

GILBERT, P.J.

YEGAN, J.

Edward F. Brodie, Judge
Superior Court County of Ventura

Lyn A. Woodward, under appointment by the Court of Appeal; Mario Zamorano, in pro. per., for Appellant.

No appearance for Respondent.